

Congress of the United States
CONGRESSIONAL OVERSIGHT PANEL

Opening Statement of Damon Silvers

Congressional Oversight Panel Hearing on TARP and Other Assistance to AIG

May 26, 2010

Good morning. This is the third hearing the Congressional Oversight Panel has conducted on the assistance provided to a particular firm. There are very good reasons for us to focus on AIG. AIG has received more TARP funds than any other financial institution. AIG remains, together with the auto companies, the largest continuing holder of TARP funds.

But it is not AIG's size that really drives the continuing intense interest of the public and Congress in the AIG bailout.

The complexity and opacity associated with the collapse and bailout of AIG, and AIG's central position in a web of relationships among financial institutions, including notably Goldman Sachs and a group of French banks, are part of the reason for the interest in AIG.

Another reason the AIG bailout looms large over TARP are the implications of the bailout in terms of the degree the public turns out to have been guaranteeing the shadow banking system. There is not much disagreement that the proximate cause of AIG's collapse was AIG's inability to pay billions of dollars it owed in September 2008 as a result of its sale of unregulated bond insurance in the form of over the counter derivatives called credit default swaps and obligations AIG had as a result of securities lending transactions. The public made good on these obligations, arguably signaling that these completely unregulated markets had a better quality government guarantee than an FDIC insured bank account or a PBGC insured pension, two very heavily regulated financial instruments.

Finally, ironically, I am interested in AIG because in part the structure of the AIG bailout was more aggressive in its approach to AIG's equity holders than subsequent bailouts under TARP, and to my view, should have been taken more seriously as a model for those subsequent bailouts.

There are four questions I hope to focus on in today's hearing about the beginning of the AIG bailout, and two questions about the future. In asking these questions, I should make clear that I think there is little doubt that AIG's collapse in September, 2008 was a systemic threat, and needed to be managed by the government. But saying that does not mean that the way the government managed it was the best way. Responsible oversight begins with rejecting the proposition that the only alternative to what a government body did was to not act at all.

The first question is why the Federal Reserve Bank of New York failed to work with private parties to provide liquidity to AIG, as the Federal Reserve Bank of New York had previously done with a number of other failing systemically significant financial institutions?

The second question is why having decided to act, did the Federal Reserve Bank of New York and later the Treasury Department under TARP fail to extract concessions from AIG's counterparties?

Third, why are the legal documents embodying the derivatives deals and securities lending deals that led to AIG's collapse still secret from the public that ultimately paid for those deals?

And fourth, ironically, is why was the AIG model bailout, where the government took 80% of the equity up front for rescuing a failing institution, not applied to the next two failing institutions that Treasury rescued under TARP—Citigroup and Bank of America?

Finally, looking forward, there are two obvious questions—what course of action is most likely to get the best risk adjusted return to the public for our investment in AIG, and to what extent does AIG remain a threat to the financial system?

We have set aside most of the day for this hearing, which hopefully will allow us to explore these questions in some depth. I look forward to hearing from our witnesses.